

## REMARKS

### Provisional election of claims 1-14

In the Office Action mailed September 22, 2003, the Examiner required confirmation of a provisional election made telephonically on September 9, 2003 with Robert S. Beiser. The Applicant hereby affirms the provisional election to prosecute claims 1 – 14 and to withdraw claims 15-21, without prejudice.

### Information Disclosure Statement

The Applicant has filed contemporaneously herewith, an Information Disclosure Statement, citing therein U.S. U.S. Pat. No. 5,895,552 to Matsuguchi.

### Fig. 11A deleted

The Examiner objected to the specification as filed because a description of Fig. 11A is missing. Fig. 11A has been deleted. The objection to the specification as missing a description of Fig. 11A, should therefore be withdrawn.

### Claims 6-14 corrected to correct an informality

Claims 6-14 were objected to because independent claim 6 was filed with an improper indefinite article. Claim 6 has been amended to recite “A method...” instead of “An method....” (Emphasis added.) The objection to claim 6 and the objection to claims 7-14 that depend on claim 6, should be withdrawn.

### Claims 1-5 are directed to a method of making a recloseable bag

Claims 1-5 were rejected under 35 U.S.C. §112, ¶2. The Examiner contended that although claim 1 was directed to a method of making a bag, the steps that were claimed did not complete the steps of making a recloseable bag. In response, the Applicant directs the Examiner’s attention to the preamble’s open-ended transitional phrase “comprising” which is well-understood by the U.S. Patent Office and the courts to mean that the subsequently-recited steps are not exclusive; that there may be additional steps of the claimed method.

Notwithstanding the Applicant’s objection to the rejection, claim 1 has been amended to add an additional step, solely to expedite prosecution. In particular, claim 1 has been amended to add a step that calls for the attachment of a zipper strip segment to a web. The “web” referenced in this limitation is described in the specification as being material from which a flexible bag is constructed. The rejection of claims 1-5 should be withdrawn.

Claims 6-12, 14 are allowable under 35 U.S.C. §102(e)

Claims 6-12 and 14 were rejected under 35 U.S.C. §102(e) as being anticipated by Blohowiak, i.e., U.S. Pat. No. 6,003,582 (hereafter “Blohowiak”).

Paraphrased, independent claim 6 has been amended to claim a method of sealing a portion of a zipper to a web. The method requires feeding zipper tape onto a platform, past an optical sensor. The zipper tape is fed onto the platform until the optical sensor detects a splotched portion of the zipper tape.

Blohowiak does not teach optically measuring or detecting the thickness of a zipper tape. In fact, none of the references cited by the Examiner show or suggest optically measuring thickness of a zipper tape to detect a splotched portion. Therefore, the rejection of claim 6-12 and 14 under 35 U.S.C. §102(e) should be withdrawn.

Claims 1-5 and 13 are not obvious

Claims 1-5 and 13 were rejected under 35 U.S.C. §103(a) as being unpatentable over the aforementioned Blohowiak reference in view of Ishikawa, U.S. Pat. No. 4,594,925.

Claim 1 as amended is in condition for allowance. In particular, claim 1 has been amended to claim that the method of making a recloseable bag comprises the step of feeding zipper tape past an optical sensor. The claimed optical sensor, optically detects zipper tape thickness variations. When a thickness variation is optically detected, a signal is generated, causing a cutter, e.g., a knife edge, to cut the zipper tape. The cut-off portion, is sealed to a web from which a bag is made.

After carefully reviewing both Blohowiak and Ishikawa, the Applicant unable to find in either reference, a teaching that flexible tape thickness variations can be optically detected. Ishikawa shows a method and apparatus for detecting gaps in a slide fastener chain that uses discontinuities between fastener elements. Ishikawa does not optically detect where a slide fastener begins and ends. The Applicant notes that Ishikawa uses an optical sensor to detect when a lever arm rises and falls over the edges of a slide fastener, however, the optical sensor of Ishikawa does not detect opacity of the zipper tape. The optical detector of Ishikawa only detects when a beam of light is interrupted and only when an arm is raised and lowered by a zipper fastener height that is above a certain minimum height. The optical sensor of Ishikawa does not detect opacity.

In addition to the foregoing bases to allow claim 1, each of the dependent claims claim additional patentable subject matter. Accordingly, the Applicant submits that all of the amended claims are allowable over the cited art. The rejection of claims 1-5 and the rejection of claim 13 should be withdrawn.

Claims 15-21 withdrawn

Claims 15-21 have been withdrawn from consideration.

Conclusion

In light of the foregoing amendment to the application, the Applicant requests that the pending claims be allowed to issue. Should the Examiner wish to discuss the application, he is invited to call the undersigned at his convenience.

Respectfully submitted,

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